

JUN 18 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

ROBERTO ZAVALA-RUBALCAVA,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 08-71092

Agency No. A95-722-348

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted June 9, 2008^{**}

Before: REINHARDT, BERZON and M. SMITH, Circuit Judges.

This is a petition for review of the Board of Immigration Appeals' ("BIA")
order dismissing petitioner's late appeal.

^{*} This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

A review of the administrative record demonstrates that petitioner's notice of appeal to the BIA was not filed within 30 calendar days after the stating of the Immigration Judge's oral decision. *See* 8 C.F.R. § 1003.38(b); *Da Cruz v. INS*, 4 F.3d 721 (9th Cir. 1993). Accordingly, respondent's motion for summary disposition is granted because the questions raised by this petition for review are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam).

All other pending motions are denied as moot. The temporary stay of removal confirmed by Ninth Circuit General Order 6.4(c) shall continue in effect until issuance of the mandate.

PETITION FOR REVIEW DENIED.